

## REMARKS

The present Amendment is being filed to revise independent claim 13 and to add a new dependent claim 24.

The main revision in claim 13 is that “or under” is being deleted from the second “wherein” clause. Applicant’s attorney has been advised that, even though the film 11 shown in Figures 3E-3F of the application’s drawing is called a diffusion-preventing film in the specification, it can also serve as an etch stop layer.

In addition, the present Amendment changes “on” to “over” in the second step recited in claim 13.

New dependent claim 24 recites that “an etch stop layer is not formed between the interlayer insulating film and the diffusion prevention film.” Claims 13 and 24 together, then, provide that an etch stop layer is not formed in the interlayer insulating film or between it and a diffusion prevention film.

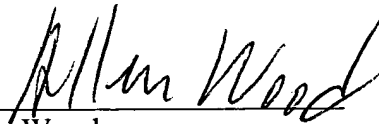
It is respectfully submitted that the invention defined by claim 13 is patentable over US published application 2003/0181034 to Jiang et al (hereafter simply “Jiang”) for the reasons discussed below.

Section 3 of the Office Action dated May 25, 2006 refers to Jiang’s second embodiment, which is directed to a dual damascene process, while discussing steps recited in claim 13 for forming various structures. The Office Action resorts to Jiang’s first embodiment, which is directed to a single damascene via, for the etching conditions recited in the first “wherein” clause of claim 13. There is no reason to think that an ordinarily skilled person who wanted to construct a dual damascene structure would have

would have thought that this should be done using etching conditions that are appropriate for forming a single damascene structure. In particular, it is respectfully submitted that an ordinarily skilled person would not have realized that the etching conditions recited in claim 13 would reduce the trench problem that is discussed in the present application when the etching conditions of claim 13 are employed for producing a dual damascene structure.

Accordingly, it is respectfully submitted that the invention defined by independent claim 13 is patentable over the prior art even though "or under" has been deleted from the claim.

Respectfully submitted,



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